

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ADRIAN MONTTOYA CARLOS,

Defendant.

4:14-CR-3109

MEMORANDUM AND ORDER

The Court has received the defendant's reply ([filing 74](#)) to the Court's Memorandum and Order ([filing 73](#)) directing the defendant to show cause why his motion to vacate under [28 U.S.C. § 2255](#) ([filing 71](#)) should not be dismissed as untimely pursuant to § 2255(f). The defendant's filing generally advances arguments relating to the merits of his motion to vacate, complaining about his sentence and the performance of his attorney. *See* [filing 74](#). But what it does not do is set forth any basis for finding that the statute of limitations for his motion was equitably tolled. *See* [Muhammad v. United States](#), 735 F.3d 812, 815 (8th Cir. 2013); *see also*, [Deroo v. United States](#), 709 F.3d 1242, 1246 (8th Cir. 2013); [Byers v. United States](#), 561 F.3d 832, 836-37 (8th Cir. 2009); [Anjulo-Lopez v. United States](#), 541 F.3d 814, 817-18 (8th Cir. 2008); *compare* [United States v. Martin](#), 408 F.3d 1089, 1093-95 (8th Cir. 2005).

Accordingly, the Court finds that the defendant's § 2255 motion is untimely, and it will be dismissed.

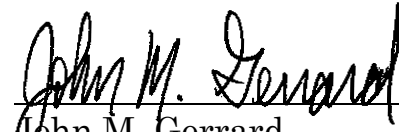
IT IS ORDERED:

1. The defendant's § 2255 motion ([filing 71](#)) is dismissed.

2. A separate judgment will be entered.

Dated this 31st day of May, 2017.

BY THE COURT:

  
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John M. Gerrard  
United States District Judge